

1 Hon. Ricardo S. Martinez
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10 UNITED STATES DISTRICT COURT FOR THE
11 WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE
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15 UNITED STATES OF AMERICA,

16 NO. CR20-094-RSM

17 Plaintiff,

18 v.

19 ELIAS NEFTALI MONTES-SEVILLA,

20 Defendant.
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**PRELIMINARY ORDER OF
FORFEITURE**

THIS MATTER comes before the Court on the United States' Motion for Entry of a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Elias Neftali Montes-Sevilla's ("Defendant") interest in the following property ("Subject Property"):

1. One Para Hi-Cap .45 Caliber pistol;
2. One Taurus PT 24/7 9mm pistol; and
3. Associated ammunition and firearm accessories.

The Court, having reviewed the United States' Motion, as well as the other papers and pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of Forfeiture is appropriate because:

- The Subject Property is forfeitable pursuant to 21 U.S.C. § 853(a), as it was used and/or facilitated the commission of Conspiracy to Distribute

1 Controlled Substances, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B)
2 and 846; and,

- 3 • Pursuant to the Plea Agreement he entered on September 30, 2021,
4 Defendant agreed to forfeit the Subject Property pursuant to 21 U.S.C.
5 § 853(a), Dkt. No. 187 ¶ 13.

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7 NOW, THEREFORE, THE COURT ORDERS:

8 1) Pursuant to 21 U.S.C. § 853(a) and his Plea Agreement, Defendant's
9 interest in the Subject Property is fully and finally forfeited, in its entirety, to the
10 United States;

11 2) Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
12 be final as to Defendant at the time he is sentenced, it will be made part of the sentence,
13 and it will be included in the judgment;

14 3) The Department of Justice, Drug Enforcement Administration, and/or its
15 authorized agents or representatives ("DEA") shall maintain the Subject Property in its
16 custody and control until further order of this Court;

17 4) Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the
18 United States shall publish notice of this Preliminary Order and its intent to dispose of the
19 Subject Property as permitted by governing law. The notice shall be posted on an official
20 government website – currently www.forfeiture.gov – for at least thirty (30) days. For
21 any person known to have alleged an interest in the property, the United States shall, to
22 the extent possible, provide direct written notice to that person. The notice shall state that
23 any person, other than the Defendant, who has or claims a legal interest in the property
24 must file a petition with the Court within sixty (60) days of the first day of publication of
25 the notice (which is thirty (30) days from the last day of publication), or within thirty (30)
26 days of receipt of direct written notice, whichever is earlier. The notice shall advise all
27 interested persons that the petition:

- 1 a. shall be for a hearing to adjudicate the validity of the petitioner's
2 alleged interest in the property;
3 b. shall be signed by the petitioner under penalty of perjury; and,
4 c. shall set forth the nature and extent of the petitioner's right, title, or
5 interest in the property, as well as any facts supporting the
petitioner's claim and the specific relief sought.

6 5) If no third-party petition is filed within the allowable time period, the
7 United States shall have clear title to the property, and this Preliminary Order shall
8 become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

9 6) If a third-party petition is filed, upon a showing that discovery is necessary
10 to resolve factual issues it presents, discovery may be conducted in accordance with the
11 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
12 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
13 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
14 adjudication; and,

15 7) The Court will retain jurisdiction for the purpose of enforcing this
16 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
17 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
18 Fed. R. Crim. P. 32.2(e).

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20 IT IS SO ORDERED.

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22 DATED this 4th day of January, 2022.

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25 RICARDO S. MARTINEZ
26 CHIEF UNITED STATES DISTRICT JUDGE
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1 | Presented by:

2 | s/ Jehiel I. Baer

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